

between two or more species with different generic base elements. For example, Applicants submit that claims 2-3 each represent distinct species of the modifying step recited in claim 1, while claim groupings 10-15, 16-21, and 22-30 are each drawn to distinct species of the testing step. Therefore, it would be improper, for example, for the Office to require Applicants to elect between species A and I. However, a species election requirement allowing Applicants to properly select generic claims 1 and 4-9 for examination, elect between claims 2 or 3, and elect one of claim grouping 10-15, 16-21, or 22-30 would be proper. As a result, Applicants alternatively elect claims 2 and 10-15 and submit that claims 1-2 and 4-15 should be properly examined on the merits.

Regarding the Election Requirement and the Species Requirement, it is respectfully submitted that the subject matter of all claims 1-33 is sufficiently related that a thorough search for the subject matter of any one of the claims would encompass a search for the subject matter of the remaining claims. In particular, while Applicants make absolutely no admission of the patentable distinctness of each claim relative to other claims, the search for the system will inherently encompass a search for structure related to carrying out the method. The Office's statement regarding the different classifications supports Applicants' assertion. In particular, 324/765 includes "a determination of faults in a material which is a solid or liquid conductor with resistivity between that of metals and that of insulators," while 324/766, a subclass indented under 324/765, includes "having a region in which the mobile-carrier charge density is insufficient to neutralize the net fixed charge density of donors and acceptors." Applicants are skeptical that the Office would carry out a fundamentally different (and additionally burdensome) search if/when the methods are presented separately. In particular, it is incomprehensible that the

Office would ignore 324/765 when searching for the methods, and vice versa, for 324/766 for the apparatus. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803, in which it is stated that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions” (emphasis added). It is respectfully submitted that this policy should apply to the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office.

In view of the foregoing, Applicants respectfully request withdrawal of both the Species Election Requirement and the Invention Election Requirement. Should the examiner require anything further from Applicants, the examiner is invited to contact Applicants’ undersigned representative at the number listed below.

Respectfully submitted,



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